

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	4:08CR3026
	)	
v.	)	
	)	
CARLOS LOVERBOY SILVA,	)	MEMORANDUM AND ORDER
	)	
Defendant.	)	
	)	

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At the defendant's hearing recently on the petition for action on conditions of his release, I advised the defendant that I thought he was not being truthful either to his supervising officer or to the court. I ordered him detained. However, I also said that in the event his two most recent drug tests came back from the lab having tested negative, I might reconsider. They did come back negative, and he has now filed a motion to re-address his detention.

The two negative tests demonstrate that his body is not unusual in its metabolizing THC, the active ingredient in marijuana. That, in turn, demonstrates that he was fabricating reasons for his positive tests in the past. The negative results also demonstrate that if he wants to, the defendant is able to refrain from using marijuana, at least for a short period. The testimony at the hearing also established that he was not being truthful with the court regarding the party on April 27, 2008. He appears to be a liar and a manipulator.

Being a liar and a manipulator, though, while posing substantial difficulties in supervision, do not establish a likelihood of nonappearance nor a danger to the safety of the community. The defendant's drug use, if it continues, will

establish a danger to the safety of the community; however, it appears that if he will cooperate and participate in good faith in treatment, he may be able to stay clean and out of jail until trial. Therefore, I have decided to give him one last opportunity to demonstrate that he can be trusted on release. I shall release the defendant once again, but under stringent conditions requiring his residing in a supervised living environment, employment, and his full participation in treatment. These conditions will be strictly enforced. Further violations of conditions of release will not be tolerated.

IT THEREFORE HEREBY IS ORDERED,

The motion to reopen detention hearing, filing [29](#), is granted in part. The pretrial services officer shall investigate and report to the court and counsel whether there is space available for defendant at a suitable halfway house living environment outside of Lincoln, Nebraska, requiring employment and intensive outpatient treatment, as well as the usual conditions applicable.

DATED this 2<sup>nd</sup> day of June, 2008.

BY THE COURT:

s/ *David L. Piester*

David L. Piester  
United States Magistrate Judge